MONTANA LEGISLATIVE HISTORY

Chapter 140 1985

Bill H 62 S _____ Original bill & history ____C

H. Committee on State Admin.			S. Committee on Local Gov't.		
Hearing Date(s)	Jan 11	✓ C	Hearing Date(s)	~~Jan 26~~	✓ C
	Jan 13	✓ C		Feb 14	✓ C
		____C			____C
		____C			____C
Date Out	Jan 13	✓ C		Feb 15	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

	TRANSMITTED TO SENATE		
1/25	REFERRED TO LOCAL GOVERNMENT		
2/09	HEARING		
3/01	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
3/03	2ND READING CONCURRED	45	3
3/06	3RD READING CONCURRED	43	6
	RETURNED TO HOUSE WITH AMENDMENTS		
4/11	2ND READING AMENDMENTS CONCURRED	95	2
4/12	3RD READING AMENDMENTS CONCURRED	95	2
4/18	SIGNED BY SPEAKER		
4/19	SIGNED BY PRESIDENT		
4/19	TRANSMITTED TO GOVERNOR		
4/24	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 623 EFFECTIVE DATE: 1/01/91		

HB 61 INTRODUCED BY GRADY, ET AL.
INCREASE MAXIMUM OBLIGATION AUTHORITY OF STATE HIGHWAY CONSTRUCTION FUNDS TO A COUNTY FOR THE FEDERAL-AID SECONDARY HIGHWAY SYSTEM
BY REQUEST OF DEPARTMENT OF HIGHWAYS

1/03	INTRODUCED		
1/04	REFERRED TO HIGHWAYS & TRANSPORTATION		
1/12	HEARING		
1/14	COMMITTEE REPORT--BILL PASSED		
1/17	2ND READING PASSED	92	7
1/19	3RD READING PASSED	91	7
	TRANSMITTED TO SENATE		
1/20	REFERRED TO HIGHWAYS & TRANSPORTATION		
2/07	HEARING		
2/08	COMMITTEE REPORT--BILL CONCURRED		
2/11	2ND READING CONCURRED	46	0
2/14	3RD READING CONCURRED	47	0
	RETURNED TO HOUSE		
2/18	SIGNED BY SPEAKER		
2/20	SIGNED BY PRESIDENT		
2/20	TRANSMITTED TO GOVERNOR		
2/23	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 25 EFFECTIVE DATE: 10/01/89		

HB 62 INTRODUCED BY HANSON, M., ET AL.
REQUIRE AUDITS OF CEMETERY DISTRICTS

1/04	INTRODUCED		
1/04	REFERRED TO STATE ADMINISTRATION		
1/05	FISCAL NOTE REQUESTED		
1/11	HEARING		
1/11	FISCAL NOTE RECEIVED		
1/12	FISCAL NOTE PRINTED		
1/13	COMMITTEE REPORT--BILL PASSED		
1/16	2ND READING PASSED AS AMENDED	92	2
1/18	3RD READING PASSED	92	4
	TRANSMITTED TO SENATE		
1/19	REFERRED TO LOCAL GOVERNMENT		
1/26	HEARING		

2/15	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
2/27	2ND READING CONCURRED	48	0
2/28	TAKEN FROM ENGROSSING		
3/01	2ND READING CONCURRED AS AMENDED	48	0
3/03	3RD READING CONCURRED	46	2
	RETURNED TO HOUSE WITH AMENDMENTS		
3/06	2ND READING AMENDMENTS CONCURRED	88	6
3/07	3RD READING AMENDMENTS CONCURRED	87	5
3/11	SIGNED BY SPEAKER		
3/13	SIGNED BY PRESIDENT		
3/14	TRANSMITTED TO GOVERNOR		
3/18	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 140 EFFECTIVE DATE: 3/18/89		

HB 63 INTRODUCED BY EUDAILY
PERMIT MEMBERSHIP IN ASSOCIATIONS OF COUNTY SCHOOL SUPERINTENDENTS

1/04	INTRODUCED		
1/04	REFERRED TO EDUCATION & CULTURAL RESOURCES		
1/13	HEARING		
1/14	COMMITTEE REPORT--BILL PASSED AND PLACED ON CONSENT CALENDAR		
1/18	3RD READING PASSED	94	2
	TRANSMITTED TO SENATE		
1/19	REFERRED TO EDUCATION & CULTURAL RESOURCES		
1/30	HEARING		
2/06	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
2/09	2ND READING CONCURRED	50	0
2/11	3RD READING CONCURRED	42	4
	RETURNED TO HOUSE WITH AMENDMENTS		
2/27	2ND READING AMENDMENTS CONCURRED	82	7
2/28	3RD READING AMENDMENTS CONCURRED	87	7
3/02	SIGNED BY SPEAKER		
3/02	SIGNED BY PRESIDENT		
3/02	TRANSMITTED TO GOVERNOR		
3/06	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 46 EFFECTIVE DATE: 10/01/89		

HB 64 INTRODUCED BY EUDAILY
REVISE SCHOOL BUDGETING, REPORTING, AND INVESTMENT REQUIREMENTS

1/04	INTRODUCED		
1/04	REFERRED TO EDUCATION & CULTURAL RESOURCES		
1/13	HEARING		
1/17	COMMITTEE REPORT--BILL PASSED AS AMENDED		
1/19	2ND READING PASSED	99	0
1/21	3RD READING PASSED	91	0
	TRANSMITTED TO SENATE		
1/23	REFERRED TO EDUCATION & CULTURAL RESOURCES		
1/30	HEARING		
2/02	COMMITTEE REPORT--BILL CONCURRED		
2/07	2ND READING CONCURRED	50	0

STATE OF MONTANA — FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB062, as introduced

DESCRIPTION OF PROPOSED LEGISLATION: LC 0230/01

HB062 adds cemetery districts to the list of governmental entities subject to audit by the Department of Commerce.

ASSUMPTIONS:

1. There are currently 82 active cemetery districts in the state.
2. All cemetery district boards would opt for biennial audits.
3. The average cost per audit would be $363 for an annual total of $14,883 for 41 audits.

FISCAL IMPACT:

	FY90 Current Law	FY90 Proposed Law	FY90 Difference	FY91 Current Law	FY91 Proposed Law	FY91 Difference
Expenditures:	-0-	$14,883	$14,883	-0-	$14,883	$14,883
Funding:						
Proprietary Fund	-0-	$14,883	$14,883	-0-	$14,883	$14,883

EFFECT ON LOCAL EXPENDITURES:

Cemetery district funds would be reduced by $14,883 per year for audit costs.

TECHNICAL OR MECHANICAL

Audits of fire and irrigation districts and fire department relief associations have been limited to the larger entities since the 1985 session pursuant to Sections 2-7-503 (6)(a)(i) and (ii) and to 2-7-503 (7)(a), MCA.

Ray Shackleford 1/11/89
RAY SHACKLEFORD, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Marian W. Hanson 1/12/89
MARIAN W. HANSON, PRIMARY SPONSOR DATE

SECOND READ

Fiscal Note for HB062, as introduced HB 62

bill. She said that the only counties that she had spoken with were Big Horn and Rosebud, and they said at the present time they had not funded the position. They said they would take another look at it after the coordinator position was in place.

Closing by Sponsor: Rep. Hanson said she would like to respond to Rep. Gervais's comment about having this taken care of at the local level. She stated that it was very hard to settle disputes when you can't get the affected people to even sit down at the table and talk, which is happening at some of the reservations. She felt that the coordinator could be an advocate for the counties that at this time feel they do not have any "ears" as to what is taking place with the Coordinator of Indian Affairs' Office and the county and state governments. She urged a do pass.

DISPOSITION OF HB 78

Chairman Brown said that when the fiscal note is received for HB 78, the committee would act on the bill.

HEARING ON HB 62

Presentation and Opening Statement by Sponsor: Rep. Marian Hanson, House District 100, she said that the legislation was brought to her attention by constituents in her area. The bill provides for an audit of the affairs of cemetery districts. She stated she did not know at the time that there are two kinds of cemeteries in Montana. There is a cemetery association that has to be audited and has all the rules and regulations to keep them accountable; and the cemetery districts that do not have to be audited. They just have to report to the commissioners, and they only have to report to the commissioners when asked for a report. She feels that the bill would provide the accountability that is needed.

List of Testifying Proponents and What Group They Represent:

Terry Lazure, Central administration Division, Administrator of the State Auditors' Office

List of Testifying Opponents and What Group They Represent:
None

Testimony:

TERRY LAZURE said that his office received two letters last

summer from people in Big Horn County, who were concerned about their cemetery district. It appears that one person controls both the receipt and disbursement of the funds and the general public is not given access to any financial reporting as there is a loophole in the law. Our office is in support of the bill because cemetery districts "fall through the crack" as far as accounting and reportability. We feel that the Local Government Services Division of the Department of Commerce, that is doing local government auditing now, should be doing audits of the cemetery districts. He handed copies of the letters to the committee (Exhibits 6 and 7).

Questions From Committee Members:

REP. CAMPBELL asked if he knew how much this would cost. CHAIRMAN BROWN informed the committee that there was a fiscal note attached to the bill and it should be available later in the week. REP. WESTLAKE asked how much of a problem it is, and is there any report required at county level. Rep. Hanson responded that the cemetery districts only had to furnish a report at the request of the county commissioners. In Big Horn County there has not been a report requested for ten years. There have been about 600 burials at $50 apiece, which have not been reported to the county commissioners nor has the money been turned back to the county. REP. PHILLIPS said that under the existing law, "the board of cemetery trustees shall annually present a budget to the board of county commissioner" which indicates that they do report. Rep. Hanson said they do come to the county commissioners and ask for a budget; but they do not have to ask for a report.

Closing by Sponsor: Rep. Hanson said she feels the bill is necessary to correct the accountability problem with cemetery districts.

DISPOSITION OF HB 62

Chairman Brown said the committee would postpone action of the bill until the fiscal note is received.

DAILY ROLL CALL

STATE ADMINISTRATION COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date January 11, 1989

NAME	PRESENT	ABSENT	EXCUSED
Rep. Jan Brown, Chairman	✓		
Rep. Helen O'Connell, Vice Ch.	✓		
Rep. Vicki Cocchiarella	✓		
Rep. Ervin Davis	✓		
Rep. Floyd "Bob" Gervais	✓		
Rep. Janet Moore			✓
Rep. Angela Russell		✓	
Rep. Carolyn Squires	✓		
Rep. Vernon Westlake	✓		
Rep. Timothy Whalen	✓		
Rep. Bud Campbell	✓		
Rep. Duane Compton	✓		
Rep. Roger DeBruycker	✓		
Rep. Harriet Hayne	✓		
Rep. Richard Nelson	✓		
Rep. John Phillips	✓		
Rep. Rande Roth	✓		
Rep. Wilbur Spring, Jr.	✓		

EXHIBIT 6
DATE 1-11-89
HB 62
1 of 2

July 20, 1988

Mr. and Mrs. Don Lehman
Route 1
P. O. Box 1122
Hardin, MT 59034

Dear Mr. and Mrs. Lehman:

Thank you for your letter inquiring about an audit of Cemetery District #1 in Hardin.

The state statutes that authorize my audit functions limit my audit work to state offices and agencies. However, I will offer some suggestions for ways you may approach your problem.

The Montana Department of Commerce, Local Government Services Division has statutory authority to provide audit services to local governments. If the state law authorizing local governments does not include cemetery districts, the gentleman that supervises the audit section will be able to recommend alternatives to answer your questions. Mr. Michael Duncan, the audit section supervisor may be contacted as follows.

Mr. Michael Duncan, Supervisor
Audit Section
Montana Department of Commerce
805 N. Main
Capitol Station
Helena, Montana 59620

Telephone: (406) 444-3010

I am sending Mike a copy of this letter and a copy of your letter. I do suggest that you contact him.

Another approach you may wish to consider is contacting the Big Horn County Attorney to express your concerns and request the county attorney review the situation. If he feels the need he may request an independent audit be conducted.

As to the legal and ethical questions you asked, I am not an attorney, and therefore, am unqualified to answer. The circumstances you presented in your letter, on the surface indicate the absence of internal accounting controls. These controls, when functioning properly should detect and or prevent errors or irregularities such as you have described.

I hope this information will be of assistance to you. Please feel free to contact me again if you need additional assistance.

With best personal regards, I am

Very truly yours,

Andrea "Andy" Bennett
State Auditor

AAB/jlf(294)
cc: Mike Duncan

EXHIBIT 6
DATE 1-11-89
HB 62

757

July 8, 1988

RECEIVED
STATE AUDITOR'S
OFFICE
JUL 12 8 01 AM '88
HELENA, MONT.

Andrea Bennett
State Auditor
Capitol Station
Helena, MT 59620

Dear Ms. Bennett:

We are inquiring into a situation here in Big Horn County and are hoping that your office can be of some help to us.

Our Cemetery District #1 was created in the 1950's. There is an Order to that effect filed in the Clerk and Recorder's Office here in Hardin.

Since that time, however, there has never been any report or accounting made by said District. According to Sections 7-35-2131 through 7-35-2150 in the Montana Code Annotated, a Cemetery District is to establish and maintain a permanent care and improvement fund and to file with the District Court accountings, bonds, etc., for approval by a District Judge. After checking the Court records, I can assure you that there is no record on file whatsoever, for Cemetery District #1.

Also, whenever audits are done for the various county offices, there are never any done for the Cemetery Districts, for they are separate entities, it seems.

Therefore, we have the following questions:

1. If no one audits the records of the Cemetery District, and there are no accountings filed with the District Court, who is to know what goes on with the Cemetery District and its Board?

2. Can your office do an audit on the Cemetery District?

3. How can one arrange for an audit of a Cemetery District?

4. Is it legal and ethical for a mortician (especially, a town's only mortician) to be the County Coroner and also be the Secretary of the Board of Trustees of a Cemetery District and thereby, be the only one who signs warrants, receives payments, and makes deposits for the said Cemetery District?

EXHIBIT 6
DATE 1-11-89
HB 62
2 of 2

We have many more questions and concerns in this matter. However, we don't know where else to ask these questions. We have not been able to get much help here in Hardin.

Could your office please look into this matter and let us know if there is anything you can do?

Thank you so much for any assistance you can give us.

Sincerely, Don Lehman

Margy Lehman

Don Lehman
Margy Lehman
Route 1, Box 1122
Hardin, MT 59034

EXHIBIT 7
DATE 1-11-89
HB 42
1 of 4

July 20, 1988

Mr. William V. Hibnes
P.O. Box 98
Hardin, MT 59034

Dear Mr. Hibnes:

Thank you for your letter expressing concerns over the operations of Big Horn County Cemetery District #1.

My office does not have statutory authority to conduct audits of local governments or political sub-divisions thereof. Responsibility for local government audits is assigned to the Local Governments Services Division of the Montana Department of Commerce in accordance with Sections 2-7-501 through 2-7-503, Montana Codes Annotated (1987).

From your letter it appears as though there are few, if any, internal controls in place to detect or prevent errors and irregularities as you have described. Further, your letter indicates on the surface at least, evidence that the board of trustees is in violation of state laws for reporting requirements for cemetery districts.

I can see no reason that would prevent the district from having an independent audit. Since I do not have the authority to perform such audits, I am suggesting that you contact the gentleman named below. He will be able to assist you in securing the audit services appropriate in the circumstances and address the issue of whom is responsible for the payment of the audit fees.

As to the dissolution of the current organization and forming a new one, this would involve court proceedings and I am almost

DATE 1-11-89
HB 62
2017

certain before such action could take place, an audit would be required in order to determine the financial position of the district.

I hope this information will help answer your questions. If I may be of further assistance please contact me.

With best personal regards, I am

Very truly yours,

Andrea "Andy" Bennett
State Auditor and
Commissioner of Insurance

AB/jlm(295)

cc: Mike Duncan

EXHIBIT 7
DATE 1-11-89
HB 62

754
3 of 4

RECEIVED
STATE AUDITOR'S OFFICE

JUL 11 11 24 AM '88

HELENA, MONT.

JULY 7, 1988

STATE OF MONTANA AUDITOR
ANDREA BENNET
CAPITOL STATION
HELENA, MT 59601

DEAR MS. BENNET:

I HAVE BEEN AN EMPLOYEE OF BIG HORN COUNTY CEMETERY DISTRICT #1, AKA FAIRVIEW CEMETERY, AT HARDIN FOR THE PAST 12 YEARS AND 10 MONTHS. THERE ARE A NUMBER OF INCIDENTS GOING ON HERE THAT I THINK WARRANT AN AUDIT. I HAVE ASKED THE COUNTY OFFICIALS FOR HELP, BUT THEY SAY THEY HAVE NO JURISDICTION OVER IT. WHO DOES?

WE KNOW THAT MONEY FOR GRAVE LOTS HAS NOT BEEN DEPOSITED TO THE COUNTY TREASURER IN A TIMELY MANNER. THERE IS A THREE-MEMBER BOARD, ELIZABETH BRENNAN, CHAIRMAN; TERRY BULLIS, CLERK; AND DOROTHY PETERSON, MEMBER. WHEN ELIZABETH OR DOROTHY HAVE BEEN ASKED ABOUT DIFFERENT PROBLEMS, THEY SAY THEY HAVE NEVER BEEN TO A MEETING. THEY KNOW ONLY WHAT TERRY TELLS THEM, AND THAT IS MOSTLY OVER THE PHONE. I HAVE COPIES OF DOCUMENTATION OF THE LEGISLATURE BEGINNING ON PAGE 267, ARTICLES 35-20-101 THROUGH 35-20-315. WE HAVE NEVER FOUND THE BY-LAWS FOR THIS CEMETERY, AND THE ONLY THING TO BE FOUND AT THE COURTHOUSE IS THAT IT WAS INCORPORATED. I DON'T BELIEVE ANY OF THE DIRECTIONS ARE BEING FOLLOWED AS THEY ARE WRITTEN IN THE LITERATURE I HAVE.

TERRY BULLIS, CLERK OF THE DISTRICT, IS ALSO THE COUNTY CORONER AND A LOCAL MORTICIAN. HE KEEPS HIS RECORDS ON A COMPUTER AT THE MORTUARY. THE WARRANTS AND RECEIPTS FOR MONEY HE DEPOSITS AT THE COUNTY TREASURER'S OFFICE HAVE NO EXPLANATION OF SOURCE. WE HAVE KNOWN OF MONEY DEPOSITED TO THE COUNTY TREASURER WITH STALEDATED CHECKS THAT WERE ALMOST A YEAR OLD. DEEDS FILED AT THE CLERK AND RECORDERS OFFICE ARE NOT FILED AS OFTEN AS THEY SHOULD BE, AND IT IS SOMETIMES MONTHS BEFORE PEOPLE GET A DEED. THE CHARGE FOR A LOT IS $75.00, AND OPENING AND CLOSING FEES ARE $25.00. THIS MONEY IS BROUGHT TO THE COURTHOUSE WHENEVER TERRY FEELS LIKE BRINGING IT, AND IT IS NOT ITEMIZED AS TO WHO HAS PAID.

IS THERE SOME WAY THIS CAN BE AUDITED? WHO WOULD HAVE TO PAY FOR IT?

I WOULD APPRECIATE AN IMMEDIATE RESPONSE AS I BELIEVE SOMETHING SHOULD BE DONE NOW. THIS HAS BEEN GOING ON FOR SEVERAL YEARS. IS THERE SUCH A THING AS PUTTING AN END TO THIS AND STARTING OVER WITH A COMPLETE NEW SET OF BY-LAWS

EXHIBIT 7
DATE 1-11-89
HB 62

4 of 4

SINCERELY,

William V. Hibnes

WILLIAM V. HIBNES

VISITORS' REGISTER

STATE ADMINISTRATION COMMITTEE

BILL NO. HB 62 DATE January 11, 1989

SPONSOR Rep. Hanson

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Dewey Rogers	State Auditor's Office	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Discussion: CHAIRMAN BROWN asked if REP. PHILLIPS wanted a clarification of beneficial organization. Rep. Phillips declined.

Amendments and Votes: None

Recommendation and Vote: HB 36 PASSED unanimously. Rep. DeBruycker asked that since it has passed unanimously if the bill could be put on the Consent Calendar. The committee agreed.

DISPOSITION OF HB 62

Motion: Rep. O'connell moved DO PASS, Rep. Hayne seconded.

Discussion: REP. CAMPBELL asked who was going to have to pay for the audit. He wanted to make sure that the cemetery districts were paying for the audit and not putting the burden on the county. Lois Menzies, staff researcher, said that the Department of Commerce charges the audit fees and the audit fees are required to be paid by the governmental entity to the State Treasurer. REP. NELSON said that if the cemetery districts are paying to the county to have the audit done then basically they are paying for it themselves. REP. COCCHIARELLA said that on the fiscal note it said that cemetery funds would be reduced by the amount of $14,883. REP. DEBRUYCKER said he was confused about the audit issue. Lois Menzies said that the audit would be mandatory and that she believed the money would come from the cemetery district, not from the county. REP. DEBRUYCKER asked if this would force every cemetery district to have an audit and what the cost of that would be. REP. GERVAIS said that in his district that they have their own funds, and it is real difficult to get any information at all out of them. He thinks the bill is a good one. REP. WESTLAKE said he has a concern of where the cost of the audit will eventually be collected. He doesn't want the cost passed onto the county. REP. COCCHIARELLA said she had phoned her county commissioners, and they were 100 percent in favor of the bill passing.

Amendments and Votes: None

Recommendation and Vote: A division of the house was called for. A roll call vote was taken. The motion PASSED by a vote of 9 to 8. (See attached voting sheet.)

DAILY ROLL CALL

STATE ADMINISTRATION COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date January 13, 1989

NAME	PRESENT	ABSENT	EXCUSED
Rep. Jan Brown, Chairman			
Rep. Helen O'Connell, Vice Ch.			
Rep. Vicki Cocchiarella			
Rep. Ervin Davis			
Rep. Floyd "Bob" Gervais			
Rep. Janet Moore			
Rep. Angela Russell			
Rep. Carolyn Squires			
Rep. Vernon Westlake			
Rep. Timothy Whalen			
Rep. Bud Campbell			
Rep. Duane Compton			
Rep. Roger DeBruycker			
Rep. Harriet Hayne			
Rep. Richard Nelson			
Rep. John Phillips			
Rep. Rande Roth			
Rep. Wilbur Spring, Jr.			

STANDING COMMITTEE REPORT

January 13, 1989

Mr. Speaker: We, the committee on State Administration report that House Bill 62 (first reading copy -- white) do pass .

Signed: Jan Brown
Jan Brown, Chairman

ROLL CALL VOTE

STATE ADMINISTRATION COMMITTEE

DATE 1-13-89 BILL NO. HB62 NUMBER HB 62

NAME	AYE	NAY
Jan Brown	✓	
Bud Campbell		✓
Vicki Cocchiarella	✓	
Duane Compton		
Ervin Davis		✓
Roger DeBruycker		✓
Floyd "Bob" Gervais	✓	
Harriet Hayne	✓	
Janet Moore	✓	
Richard Nelson		✓
Helen O'Connell		✓
John Phillips	✓	
Rande Roth	✓	
Angela Russell	✓	
Wilbur Spring, Jr.		✓
Carolyn Squires	✓	
Vernon Westlake		✓
Timothy Whalen		✓

TALLY 9 8

Judy Burggraff
Secretary

Jan Brown
Chairman

MOTION: Do Pass

Form CS-31
Rev. 1985

from the property.

Senator Beck asked if county commissioners could negotiate and not necessarily write off all the taxes, just a certain portion. Mr. Driscoll answered that they could. Negotiation is not prohibited by the bill. He stated that the new company has to disclose their financial statement. After 3 years, if the plant closes down, whose liable for the taxes? The property is liable for all penalty and interest.

Closing by Sponsor: Representative Driscoll stated this has been a good hearing. Presently no one has any power to forgive any taxes, and in some cases the delinquent taxes are bad debts. Hopefully this will get a business going before it goes to bankruptcy court. There has to be a notice and a public hearing. The new owner can do it or they can say no.

DISPOSITION OF HOUSE BILL 58

Discussion: Senator Crippen stated that the state wide levies may be a problem. Senator Beck stated local governments don't have authority over state imposed taxes. Senator Hammond stated you could have 2 owners then taxes go against the property. The bill leaves a lot to their local government and all the other tax laws apply.

Amendments and Votes: None

Recommendation and Vote: Senator Hammond made a MOTION that we DO CONCUR in HB 58. The vote was UNANIMOUS

HEARING ON HOUSE BILL 62

Presentation and Opening Statement by Sponsor:
Representative Marian Hanson, House District 100, Big Horn County stated that HB 62 was brought to my attention last fall because people in her area wanted to have an audit of their cemetery district. Cemetery associations have audits but cemetery districts do not and in their area there was no accountability. Because of the cost of an audit, they stipulated that cemeteries with expenditures of less than $10,000 would be exempt from audits. This bill will give commissioners the authority to audit cemetery districts and provides accountability.

List of Testifying Proponents and What Group they Represent:

None

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Questions From Committee Members: Senator Pinsoneault asked if someone was absconding with funds in Big Horn County? The fact that you haven't had an audit in 10 years doesn't suggest that someone is stealing money. Yes, there is suspicion. The county levies $40,000 a year for maintenance toward the cemeteries and it happens that the coroner is the chairman of the cemetery district and so when there is a death he proceeds to ask the people to write the check out to the mortuary and eventually he does turn a little money in to the county. But there is no record. Senator Pinsoneault asked if she had an objection if they raised the $10,000 to $15,000?

Senator Hammond asked if the county commissioners demand an audit? They can, but they haven't at this time. They need a report. Senator Hammond asked if this could be handled on the local level rather than coming to the state. M. Hanson stated that the fiscal note indicates that an audit would cost about $363.00. She also stated that the district being audited has to ask for that audit. She stated that they have to audit the other entities so they could audit the cemetery district at the same time.

Senator Thayer asked who would do the audits? Connie Erickson answered the Department of Commerce. Senator Thayer asked if there are private cemeteries? Every cemetery that has a budget of less than $10,000 are exempt from audit. Senator Thayer asked if a private audit would suffice? He thinks that a CPA in the local community should be able to do the audit. Senator Harding stated that law is on the books; they have their choice.

Gordon Morris stated that local government is statutorily empowered to conduct local governmental audits but that is not exclusive. You can go contract with any private auditing firm. The roll of the Department becomes one of reviewing and approving the audit contract. So the majority of local government entities are, in fact,

audited by private auditors, as opposed to the Department of Commerce. The reason for this is self-explanatory. The Department has such a back log that they can't get around to the counties.

Senator Beck asked on page 4, line 17 the cemetery district will file with the clerk of the district court. Why not the clerk and recorder? Good question. For cemeteries it has always been the clerk of the district court. When you deal with county commissioners, your are usually working with the clerk and recorder, not the clerk of the district court.

Senator Harding stated that Lake County has their cemetery districts audited. Gordon Morris stated that county commissioners have the responsibility to see that management practices are followed in terms of these particular entities, cemetery districts, although you find there is a lot of variation as to how cemetery districts are organized and managed. You have district trustees, or nothing but caretakers.

Closing by Sponsor: Representative Hanson feels this bill would provide some accountability and cemetery districts should be required, since they use public funds, to be accountable to those people in that district. With that I'll close.

DISPOSITION OF HOUSE BILL 62

Discussion: Senator Pinsoneault stated he would like to talk to Mr. French, who runs that Lake County Cemetery District, who had some concerns and I would like to postpone action on this bill until Tuesday.

Amendments and Votes: None

Recommendation and Vote: None

DISCUSSION ON SENATE BILL 35

Chairman Harding stated that Senator Weeding is here to offer an amendment to take care of these problems we have been wrestling with. Senator Weeding stated he did not have an amendment prepared for the retirement homes. He mentioned the wording of "beds". What about the question that Senator Farrell had regarding the vote of the people. Senator Weeding asked if Connie Erickson will prepare an amendment requiring a vote of the people. Senator Harding

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

51th LEGISLATIVE SESSION -- 1989 Date 1-26-89

NAME	PRESENT	ABSENT	EXCUSED
Sen. Ethel Harding	X		
Sen. R.J. "Dick" Pinsoneault	X		
Sen. Tom Beck	X		
Sen. Eleanor Vaughn	X		
Sen. H.W. "Swede" Hammond	X		
Sen. Mike Walker	X		
Sen. Gene Thayer	X		
Sen. Paul Boylan	X		
Sen. Bruce D. Crippen	X		

Each day attach to minutes.

that traditionally the county attorney spoke for everyone. In Ravalli County the county attorney does all the civil work and hires out the criminal. In Lake County we have a full time attorney for civil matters and a full time attorney for criminal matters.

Closing by Sponsor: Representative Hammond stated the bill has been well discussed and this bill will be helpful to class 1 counties to have another option.

DISPOSITION OF HOUSE BILL 180

Discussion: Chairman Harding asked if there is a Senator willing to carry the bill to the floor? Rep. Hannah stated Senator McLane will carry HB 180.

Amendments and Votes: None

Recommendation and Vote: Senator Hammond MOVED that we DO CONCUR in HB 180. The VOTE was 8 for and Senator Crippen voted NO. VOTE CARRIED 8 to 1.

EXECUTIVE ACTION ON SENATE BILL 119

Discussion: Chairman Harding stated SB 119 was sponsored by her and she talked with Dwayne Robertson and he stated that HB 111 had been amended and had a much lower price tag. It goes from $.50 to $.85 instead of $.50 to $1.10. He thinks HB 111 will pass and this bill would work in conjunction with it, so asked that we pass SB 119 out of committee.

Amendments and Votes: Connie Erickson presented the amendments that were requested during the hearing. They are as follows: On Page 2, line 2 strike: "and" and insert: "or". On page 2, line 13 following line 12 insert: "NEW SECTION Section 3. Coordination instruction. Unless House Bill No. 111 (LC 535) is passed and approved, (this act) is void."
Renumber: subsequent section

Senator Beck MOVED that we ACCEPT THE AMENDMENT as stated. The VOTE was UNANIMOUS in FAVOR of the amendments.

Recommendation and Vote: Senator Vaughn MOVED that we DO PASS AS AMENDED SB 119. MOTION CARRIED with 8 voting for and Senator Beck OPPOSED.

EXECUTIVE ACTION ON HOUSE BILL 62

Discussion: Representative Hanson's HB 62 was brought back

from the TABLE. Senator Crippen asked about amending the amount to $25,000 before an audit was required. Representative Hanson had written a letter to Senator Harding approving of the $25,000 amount and agreeing to a sunset because her area just needed the one audit.

Amendments and Votes: Senator Beck MOVED that we AMEND HB 62 as follows: In the Title, line 8, following: "DATE" insert: "AND A TERMINATION DATE". On page 4, line 14 strike: "$10,000" and insert: "$25,000". On page 5 following: line 15 insert: "NEW SECTION Section 4. Termination. (This act) terminates June 30, 1991." The MOTION carried to AMEND HB 62 UNANIMOUSLY.

Recommendation and Vote: Senator Walker MOVED that we CONCUR IN AS AMENDED HB 62. The VOTE was UNANIMOUS in FAVOR of HB 62 AS AMENDED.

ADJOURNMENT

Adjournment At: 3:00 p.m.

Ethel Harding

SENATOR ETHEL HARDING, Chairman

EH/dh

minutes.209

SENATE STANDING COMMITTEE REPORT

February 15, 1989

MR. PRESIDENT:
We, your committee on Local Government, having had under consideration HB 62 (third reading copy -- blue), respectfully report that HB 62 be amended and as so amended be concurred in:

Sponsor: Hanson (Devlin)

1. Title, line 8.
Following: "DATE"
Insert: "AND A TERMINATION DATE"

2. Page 4, line 14.
Strike: "$10,000"
Insert: "$25,000"

3. Page 5.
Following: line 15
Insert: "NEW SECTION Section 4. Termination. [This act] terminates June 30, 1991."

AND AS AMENDED BE CONCURRED IN

Signed: Ethel M. Harding
Ethel M. Harding, Chairman

SCRHB062.215

Amendments to House Bill No. 62
Third Reading Copy

For the Committee on Senate Local Government

Prepared by Connie Erickson
February 14, 1989

1. Title, line 8.
Following: "DATE"
Insert: "AND A TERMINATION DATE"

2. Page 4, line 14.
Strike: "$10,000"
Insert: "$25,000"

3. Page 5.
Following: line 15
Insert: "NEW SECTION Section 4. Termination. [This act] terminates June 30, 881991."